

HISTORIC PRESERVATION PERMIT

FILE NO.	HP19-003
LOCATION OF PROPERTY	419 North Fifth Street
ZONING DISTRICT	R-M Multiple Residence
GENERAL PLAN DESIGNATION	Residential Neighborhood
PROPOSED USE	Historic Preservation Permit to allow the demolition of 348-square foot non-historic rear addition and new addition of two attached residential units to the rear, totaling approximately 2,655 square feet, for an existing single-family residence listed as a contributing structure on the City's Historic Resources Inventory, in the Hensley City Landmark District and the Hensley National Register District, and removal of two ordinance-size trees on a 0.22-gross acre site
HISTORIC AREA	Hensley City Landmark District
ENVIRONMENTAL STATUS	Exempt pursuant to CEQA Guidelines Section 15303(b) for New Construction or Conversion of Small Structures and Section 15331 for Historical Resource Restoration/Rehabilitation
OWNER/ADDRESS	TTAI Investments, LLC 390 E. Washington Avenue Sunnyvale, CA 94086
APPLICANT/ADDRESS	TTAI Investments, LLC 390 E. Washington Avenue Sunnyvale, CA 94086

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Project Description.** Historic Preservation Permit to allow the demolition of a 348-square foot non-historic rear addition and new addition of two attached residential units to the rear of the primary house, totaling approximately 2,655 square feet, for an existing single-family residence listed as a contributing structure on the City's Historic Resources Inventory in the Hensley City Landmark District and in the Hensley National Register District, and removal of two ordinance-size trees on a 0.22-gross acre site in the R-M Multiple Residence Zoning District. The project will add five parking spaces on the side and rear which will be accessed from an existing

driveway off N. 5th Street. The project will repair and restore foundation and porch and some of the wood windows and wall siding of the existing house with this permit.

2. **Site Description and Surrounding Uses.** The project site is located on the west side of North 5th Street, approximately 150 feet northerly of Washington Street, at 419 North 5th Street. The adjacent uses consist of a single-family residence to the north, multiple-family residences and auto-related uses to the south, multi-family residential uses to the east, across North 5th Street, and single-family residences to the west beyond the railway tracks along the rear property line of the subject site. The block facing North 5th Street, between Washington Street and East Empire Street, consists of a mix of single-family, two-family and multiple-family residences.

3. **Historic Resource Description**

According to the DPR Primary Record and historic report prepared for the property by Ver Planck Preservation Consulting, dated April 23, 2019, the house is a distinctive example of Queen Anne style design and illustrates Victorian-era architecture, built in circa 1874 with Colonial Revival influence. The subject residence is a two-story, wood-frame structure, originally built for Calvin Bailey, a successful businessman, and his wife Philene Bailey, a philanthropist, during the period of horticultural expansion, and was extensively remodeled in 1893. The remodel added a new front façade with a raised roof and a new rear service wing. Since the addition was done in the period of significance between 1850 to 1910, integrity is maintained, and the structure remains a contributor to the Hensley City Landmark District.

Some of the character defining features of the historic house are Tuscan-style porch columns, a plaster garland and a molded raking cornice with broken pediments at eaves. The exterior walls and roof are finished with wood siding and roof shingle materials with double hung wood windows, some of which have been replaced and altered over time.

4. **General Plan Conformance.** The subject site is designated Residential Neighborhood on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan. This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. New infill development should be integrated into the existing neighborhood pattern, continuing and, where applicable, extending or completing the existing street network. The average lot size, orientation, and form of new structures for any new infill development must therefore generally match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

Existing development within this designation will typically have a density of approximately 8 DU/AC, but in some cases this designation may be applied to areas already developed at slightly higher or slightly lower densities. New infill development should conform to the *Envision General Plan* design guidelines for Residential Neighborhoods and be limited to a density of 8 DU/AC or the prevailing neighborhood density, whichever is lower.

For infill projects where 50% or more of the development on the same block (both sides of the street) is developed at a density greater than 8 DU/AC, new development can match the prevailing density. For any new project to exceed 8 DU/AC, it is necessary that: (1) other policies in this Plan are met, (2) applicable design guidelines are met, and (3) development does not exceed 16 DU/AC.

Analysis: The project proposes a density of 14 DU/AC with the addition of two units on a 0.22-gross acre parcel and conforms to the prevailing density of 16 DU/AC, in that the project meets the (1) Housing Policy H-1.1 and Historic Preservation Land Use Goal LU-13 and Policies LU-13.1, LU-13.8 and LU-14.1 of the General Plan, (2) the project meets applicable "Your old House" Design Guidelines and the Historic Preservation Guidelines, and (3) the development does not exceed 16 DU/AC, in conformance with the General Plan designation of Residential Neighborhood.

The proposed project promotes the following goal and policies of the General Plan with respect to historic preservation:

Historic Preservation Goal LU-13 – Landmarks and Districts: Preserve and enhance historic landmarks and districts in order to promote a greater sense of historic awareness and community identity and contribute toward a sense of place.

Historic Preservation Land Use Policy LU-13.1: Preserve the integrity and fabric of candidate or designated Historic Districts.

Historic Preservation Land Use Policy LU-13.8: Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.

Historic Preservation Land Use Policy LU-14.1: Preserve the integrity and enhance the fabric of areas or neighborhoods with a cohesive historic character to maintain a connection between the various structures in the area.

Analysis: The proposed two-unit rear addition will be consistent with the goal and policies listed above and will not result in significant changes to the historic building when viewed from a public street. The addition is to the rear of the historic building and will not be visible from North 5th Street. Additionally, the rear addition will be smaller in scale and form and the new finishes will be compatible but distinguishable from the existing wood siding. The windows at the new addition will be aluminum clad wood windows but will match the style of wood windows. The addition will conform to the Secretary of the Interior's Standards for Treatment of Historic Properties, as described below.

5. Zoning Conformance. The subject site is in the R-M Multiple Residence Zoning District.

Pursuant to Section 20.100.1030.B and Chapter 13.48 of Part 3 of Title 13 of the Zoning Ordinance, modifications to a site in a City Landmark District requires a Historic Preservation Permit. Pursuant to Section 20.100.610, a Site Development Permit is also required. Section Code 20.100.140, of the San José Municipal Code, allows concurrent review of this development permit which is acted upon in a unified process.

The project proposes to add two units totaling 2,655 square feet to the rear of the primary structure. 348 square feet will be removed from the primary 3,093-square foot structure, resulting in 2,745 square feet in floor area. The three units will total 5,400 square feet with a FAR of 0.56.

The project is consistent with the regulations of the R-M Multiple Residence Zoning District as analyzed under the zoning section of the Site Development Permit.

6. **Environmental Review.** Section 15331 Historical Resource Restoration/Rehabilitation of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) consists of projects limited to maintenance, repair, stabilization, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer.

Pursuant to Section 15303(b), for New Construction or Conversion of Small Structures, of the California Environmental Quality Act (CEQA), in that the proposed project includes the addition of two residential units, for a total of three units, in an urbanized area, where up to six dwelling units are exempt under this section.

Analysis: The proposed rear addition will conform to the City's Historic Preservation Ordinance, City's Historic Design Guidelines, and to the Secretary of the Interior's Standards for the Treatment of Historic Properties. The proposal is for the addition of two residential units, for a total of three units, in an urbanized area and qualifies for CEQA Exemption 15303(b) and, therefore, the project will not negatively impact the adjacent property or properties.

7. **Secretary of Interior's Standards.** This Historic Preservation Permit was reviewed in conformance with the Secretary of the Interior's Standards. The Standards applied to this project are those for Rehabilitation. The Standards for Rehabilitation that are most applicable to this project are, Standards 2, 3, 5, 9 and 10 (five out of ten standards).

Standard 2: The historic character of a property shall be retained and preserved. The removal of historic materials or alterations of features and spaces that characterize a property shall be avoided.

Analysis: As mentioned before, the removal of the existing 348-square foot floor area at the rear of the historic building will not remove any distinctive historical materials or alter character-defining features of the existing historic resource, since it was constructed outside the period of significance. The new rear addition will be lower in height with a different roof style and mass; thereby it will be subordinate in nature and retain and preserve the overall architectural and historic character of the property.

Standard 3: Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

Analysis: The addition at the rear does not change the character-defining features of the existing house and does not add features or elements from other historic properties. The proposed addition will have a flat roof form and mass instead of a sloped roof form. The addition incorporates a functional design without conjectural features. The addition will include new windows which will match the style of the existing wood windows of the original historic house but be differentiated. All finished materials will be compatible in character of the existing residence. If the addition were removed, the integrity of the primary structure and its historic character would remain unchanged.

Standard 5: Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

Analysis: The addition of new units to the rear of the historic house will require removal of a smaller addition done at a later period and is not considered to remove distinctive features that define the historic character of the house. The materials and finishes of the new addition will be compatible but subordinate in form and style, which will help preserve the distinctive character of the original house.

Standard 9: New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

Analysis: As stated above, the 2,655-square foot addition will be smaller than the existing 3,093-square foot house and the addition will be subordinate in character to the primary residence. The new addition at the rear will be differentiated with a flat roof form and staggered modules and height, lower than the existing historic house.

The addition will incorporate similar wood siding materials and will complement the existing house but will be distinguishable due its form and mass and will not be as prominent as the historic house from public right-of-way, thereby protecting the historic integrity of the property and the environment.

Standard 10: New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Analysis: The new two-unit addition will be to the rear of the existing residence and feature flat roof form and height. Removing the addition would not impair the primary structure's location in the surrounding historic district. Should the addition be removed in the future, the historic form and integrity of the primary residence and surrounding historic district would remain unchanged. The rear addition does not change the primary character-defining features of the historic house, as discussed before, and will maintain integrity of the historic property.

8. **Historic Landmarks Commission.** The subject Historic Preservation Permit was referred to the Design Review Committee for "Early Referral." The applicant addressed the Commission's comments in the revised design by utilizing variation in sizes of wood siding and providing an offset along the side walls to differentiate the historic house from the new addition. The public hearing for this project was held on December 4, 2019. The Historic Landmarks Commission were supportive of the revised design and collectively agreed that the rear addition of two new units was clearly subordinate to the primary residence and unanimously recommended approval of the project to the Director of Planning.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. The proposal is consistent with the Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Residential Neighborhood, and the Historic Preservation Goals promoting

the preservation of historically significant structures and districts in order to promote a greater sense of awareness and community identity and to enhance the quality of urban living in that:

- a. The project is consistent with Historic Preservation Goal LU-13, in that the project will preserve historic landmark by maintaining the appearance of the building and property.
 - b. The project is consistent with Historic Preservation Policies LU-13.1, LU-13.8 and LU-14.1, in that the rear addition will be constructed in conformance with the *Your Old House* Design Guidelines and Secretary of the Interior's Standards for Treatment of Historic Properties, as discussed above.
2. Subject to conditions, the work will not be detrimental to the structure or features of significant architectural, cultural, historical, aesthetic, or engineering interest or value and is consistent with the spirit and purposes of Chapter 13.48 of the San Jose Municipal Code, in that the proposed addition is to the rear of the primary residence and complements the primary structure (Victorian house).
3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties. Under the provisions of Section 15331 (Historical Resource Restoration/ Rehabilitation) of the State Guidelines for Implementation of the California Environmental Quality Act, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The proposed project will not result in any significant changes to the historic resource and will not adversely affect the adjacent property or properties. Additionally, the addition will conform to the City's Historic Preservation Ordinance, City's Historic Guidelines, and to the Secretary of the Interior's Standards for Rehabilitation for the Treatment of Historic Properties.

In accordance with the findings set forth above, a Historic Preservation Permit for said purpose specified above and subject to each and all the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.

2. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the permittee for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
3. **Conformance to Plans.** The development of the site shall conform to the approved Historic Preservation Permit plans entitled, "Residential Addition," 419 North Fifth Street, San Jose, CA 95112, dated received September 18, 2019, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
4. **Deadline for Commencing Construction.** This Historic Preservation Permit shall automatically expire four years from and after the date of issuance hereof by said Director if within such two-year period construction of buildings, pursuant to and in accordance with the provisions of this Historic Preservation Permit, has not commenced. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration date of this Permit.
5. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
6. **Trash.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
7. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
8. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
9. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
10. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
11. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

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13. **Fire Code Compliance.** Compliance with all applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
14. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
15. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set. Any modifications to the approved plans will require a Permit Adjustment at the discretion of the Director of Planning.
16. **Mechanical Equipment.** No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise levels from such equipment will not exceed 55 dBA at the residential property line.
17. **Tree Removal.** No tree larger than 38 inches in circumference, measured at a height of 4.5 feet above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning. Two ordinance size Palm trees and one non-ordinance size tree are proposed for removal. Ten new 24-inch box trees will be planted along the perimeter landscape area of the site to meet the tree replacement requirement.
18. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner.
19. **Irrigation Standards.** The permittee shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
20. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the Project, including information on available haulers and processors.
21. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, HP19-003 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The Project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

22. **Public Works. Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Building Permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanioseca.gov/index.aspx?nid=2246>.
- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. **Transportation:** The projected traffic for this project was reviewed and found to be minimal, therefore no further traffic analysis is required.
 - c. **Grading/Geology:**
 - a) A grading permit will be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - b) All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2016 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - c) The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
 - d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which will include site design measures, to minimize stormwater pollutant discharges.
 - e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

- f. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
 - g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - h. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
 - i. **Street Improvements:**
 - a) Reconstruct existing (approximately 18') shared driveway on 5th St frontage Planning and Building
 - b) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - c) Remove and replace broken, uplifted curb and gutter as well as broken, uplifted non-ADA compliant sidewalk along project frontage.
 - j. **SNI:** This project is located within the 13th Street SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
 - k. **Electrical:**
 - a) Existing electricals along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - b) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
23. **Revocation, Suspension, Modification.** This Historic Preservation Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Historic Preservation Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **11th day of December 2019.**

Rosalynn Hughey, Director
Planning, Building, and Code Enforcement

Deputy